

Remarks

Claims 51-74 are currently pending in this application.

In the subject Office Action, the Examiner rejected claims 51-53, 55, 57-59, 67, 72-74 under 35 U.S.C. § 103(a) as allegedly obvious over Posa (US 20030108851) in view of Takeuchi et al. (US 5267154). The Examiner also rejected claims 68-71 under 35 U.S.C. § 103(a) as allegedly obvious over Posa in view of Takeuchi et al and Abrams et al. (US 5673691). Applicant acknowledges with appreciation the Examiner's indication that claims 54, 56, 60-66 would be allowable if rewritten so as not to be dependent upon a rejected base claim. With respect to the rejected claims, Applicant respectfully requests reconsideration in view of the following remarks.

With regard to claim 51, contrary to the Examiner's assertion, among other things, Posa does not disclose or suggest a body shape designation as recited in claim 51. The portions of Posa to which the Examiner referred for that limitation, namely, paragraphs [0005], [0026], and the Abstract, simply refer to weight, height, and gender parameters, which do not constitute a body shape designation. Furthermore, those parameters do not provide any basis for establishing a body shape designation. The Examiner stated that those parameters are a body shape designation describing how fat or thin by weight, or how tall or short by height, a person may be. However, a person's body shape may be any of an infinite number of shapes regardless of their weight, height, and gender. The reference to "body shape" in the Abstract of Posa simply refers to a desired body shape or a probable future body shape; the Abstract of Posa (indeed, the entirety of Posa) does not disclose or even remotely suggest a "body shape designation" as recited by Applicant's claim 51.

Additionally, even if Posa disclosed or suggested a body shape designation, which it does not, Posa is not properly combinable with Takeuchi as asserted by the Examiner. The Examiner cited Takeuchi as allegedly disclosing creating a first image representative of said person in a pre-regimen condition by modifying a generic image based on said first data set. However, Takeuchi does not even mention or remotely suggest any sort of regimen, whether by diet, exercise, or otherwise, much less a pre-regimen condition. Furthermore, Takeuchi is directed to animation and, more specifically, methods of reducing the large amount of data required for animation by simplifying the calculations using a relatively small number of standard shapes and then editing the standard shapes using an editor operated by a producer. See Takeuchi, throughout, especially col. 1, lines 25-33; col. 4, lines 28-43; col. 3, lines 2-5. By contrast, Posa is directed to a system that utilizes actual, detailed photographic images of a person using multiple cameras at various angles and distances so as to model the actual person as closely as possible and then morphing those images automatically by computer. See Posa, Fig. 1; para. [0004], [0008], [0009], [0010]. Thus, to combine the “use standard image and edit” teachings of Takeuchi with Posa would defeat the purpose of Posa and would change the principle of operation of Posa. Therefore, Takeuchi and Posa are not properly combinable and do not render Applicant’s claim 51 obvious. See *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984); *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959); MPEP § 2143.01. Thus, claim 51 and its dependent claims are allowable over the art of record. In light of that, the Examiner’s other arguments with regard to claims 52-53, 55, 57-59, 67, 72-74 are moot.

With regard to claim 73, contrary to the Examiner’s assertion, Fig. 14 of Takeuchi contains no disclosure or suggestion about fat or muscle, much less increasing or decreasing at least one of a representation of an amount of fat or a representation of an amount of muscle independently of the other as recited in claim 73. Indeed, it is unclear what Fig. 14 of Takeuchi

depicts as there is no brief description of its contents (see col. 3, lines 51-56), and the text related to Fig. 14 seems to describe a “head portion” (see col. 11, lines 29-37), not a hand as asserted by the Examiner, yet Fig. 14 does not appear to resemble a head at all. In any event, neither Posa nor Takeuchi, alone or in combination, disclose or suggest increasing or decreasing at least one of a representation of an amount of fat or a representation of an amount of muscle independently of the other as recited in claim 73. Therefore, claim 73 and its dependent claim 74 are allowable over the art of record. In light of that, the Examiner’s other argument concerning claim 74 is moot.

Conclusion

In view of the foregoing, Applicant respectfully submits that claims 51-74 are in condition for allowance, and such is earnestly requested. The fees for this submission are being paid by credit card. However, the Commissioner is hereby authorized to charge any deficiency in fees or credit any overpayment to Deposit Account No. 03-3483.

Respectfully submitted,

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Date: August 13, 2008

Electronic submission USPTO EFS Web August 13, 2008
